In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 1078

KONSTANTINOS ROUMELIOTIS and
PANAGIOTA ROUMELIOTIS, PETITIONERS

v.

J. M. LEHMANN, DISTRICT DIRECTOR OF
IMMIGRATION AND NATURALIZATION

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

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MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

Petitioners entered the United States in 1960 as temporary visitors and were deported in 1963. See 304 F. 2d 453, certiorari denied, 371 U.S. 921. Their youngest child was born in the United States in 1962.

In July 1964, petitioners, with their youngest son, entered the United States from Canada as temporary visitors for pleasure. They were permitted to remain until February 10, 1965, but did not depart (R.

5). On April 19, 1965, after a hearing at which petitioners did not contest deportability (R. 2-10), they were ordered deported unless they voluntarily departed when ordered to do so (R. 16). The time for voluntary departure, first fixed at May 20, 1965, was extended to June 24, 1965 (R. 17, 25, 32, 35).

In late May 1965, petitioners presented to the Immigration Service a letter from a private physician who stated that the son (who had been born in the United States in 1962) had been born with a right side cryptorchidism. They requested an extension of time in which to depart so that the condition could be watched (R. 20, 21, 24-31). The child was examined on May 25, 1965, by a public health physician who reported that the child did have the condition described, but that the condition would not in any way interfere with the child's ability to travel from Chicago to Greece, and that there were no special procedures or medicine necessary that would not be available in Greece or other European countries (R. 23).

When the Immigration and Naturalization Service declined to extend the time for voluntary departure, petitioners sought a stay by a petition for review in the Court of Appeals for the Seventh Circuit. The court held that no abuse of discretion had been shown (Pet. 1a-2a). Petitioners seek a review of that order.

The facts set forth above amply demonstrate that there has been no abuse of discretion in denying petitioner's application for a stay of deportation.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

THURGOOD MARSHALL,
Solicitor General.

MARCH 1966.

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